



U.S. Department of Justice

*United States Attorney
Southern District of New York*

*86 Chambers Street
New York, New York 10007*

April 16, 2021

By ECF

The Honorable Paul G. Gardephe
United States District Judge
Southern District of New York
40 Foley Square
New York, NY 10007

Re: *American Civil Liberties Union v. U.S. Department of Homeland Security, et al.*,
No. 20 Civ. 10083 (PGG)

Dear Judge Gardephe:

This Office represents U.S. Department of Homeland Security (“DHS”), U.S. Customs and Border Protection (“CBP”), and U.S. Immigration and Customs Enforcement (“ICE”) in the above-captioned action brought by the American Civil Liberties Union under the Freedom of Information Act (“FOIA”).

Pursuant to the Court’s Order of April 9, 2021, ECF No. 30, we write respectfully to provide the Court with an update regarding DHS’s search for potentially responsive documents. On March 19, 2021, DHS tasked the Office of Procurement Operations with searching for records associated with contract # HSHQDC17J00525. That search, which is now complete, yielded 22 potentially responsive pages. DHS will endeavor to process those 22 pages by the end of May. DHS anticipates requiring until the end of May to produce these records because at least some of the records will likely require consultation with a third party that submitted the records to DHS.

Two additional DHS components that have indicated that they may have responsive records—the Office of Civil Rights and Civil Liberties and the Science and Technology Directorate—are searching for potentially responsive records. Those searches are anticipated to be complete on or before April 28. Additionally, DHS is waiting to hear from additional offices that fall within the purview of the DHS Headquarters (“DHS-HQ”) FOIA Office. If any of these remaining offices indicate that they may have responsive records, they will also commence a search. DHS will be able to provide a further update of its total volume of potentially responsive records after all offices with potentially responsive records have completed their searches. DHS also respectfully proposes that, once the remaining searches are complete, it will confer with Plaintiff to determine whether the parties can agree on a processing and production schedule. If the parties are unable to agree, they will submit their dispute to the Court for resolution.

Additionally, DHS has been advised that U.S. Secret Service is in possession of potentially responsive records. DHS is still awaiting a response from U.S. Coast Guard as to whether that component is in possession of potentially responsive records. It remains DHS-HQ’s position that it is not willing to refer Plaintiff’s FOIA request to those components at this time.

Finally, we enclose a declaration from Fernando Pineiro, Acting FOIA Officer at ICE. As set forth in that declaration, ICE FOIA Office's workload, in combination with the Office's current processing and production capabilities, support a processing rate of 500 potentially responsive pages per month. ICE respectfully requests that the Court approve a production schedule pursuant to which ICE would process 500 pages of potentially responsive records per month, with monthly productions to begin at the end of April.

Respectfully,

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